UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,169	06/21/2001	Mark G. Thomas	80-00	6354

7590   08/24/2007

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ART UNIT	PAPER NUMBER
2154	

MAIL DATE	DELIVERY MODE
08/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/886,169	THOMAS, MARK G.
	Examiner	Art Unit
	Dustin Nguyen	2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*17 May 2007*</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1 – 23 are presented for examination.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3.   Claims 13, 20, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

      A.   The following terms lack antecedent basis:

           I.   "said at least one first secondary transfer component"   -   claim 20

           II.   "said transfer component"   -   claim 20

      B.   The claim language in the following claims is not clearly explained:

           I.   As per claim 21, the claimed limitation of "wherein the method comprises a method for sending mail, including creating a secondary queue which comprises a new queue prior to sendmail processing, and retrieving email code prior to further sendmail processing from the second queue and delivering prior to further sendmail processing said retrieved email code to a proscribed code scanner" is not clearly defined and explained.

           II.   As per claim 22, the term "may" is being considered as indefinite.

C.   Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete

for omitting essential steps, such omission amounting to a gap between the steps.

See MPEP § 2172.01. The omitted steps are: "wherein the step of sorting" is not

disclosed in claim that it depends on.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

Claim 18 is rejected under 35 U.S.C. 101 because claim(s) 18 is directed to an article of

manufacturer comprising a computer readable signal bearing medium. The specification

discloses intrinsic evident that the article of manufacturer including signal bearing medium [i.e.

transmission medium, carrier wave, propagation signal], as such signal bearing medium does not

fall within any of the categories of patentable subject matter as set forth in 35 U.S.C. 101 [

Please see MPEP 2106]. Examiner suggests Applicants to amend the claim to read "An article

of manufacturer comprising a computer readable storage medium".

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson,

III et al. [US Patent No 6,609,196], in view of Motoyama et al. [US Patent No 7,131,070].

7.   As per claim 1, Dickinson discloses the invention as claimed including a method for

processing stored and forwarded code [i.e. receive and transmit] [col 2, lines 2-9; and col 4,

lines 30-40] comprising:

        transferring code, from a storage component [i.e. relay module such as sendmail] [202,

Figure 2; and col 4, lines 9-29], to a transfer component [i.e. policy engine accept message from

relay module] [214, Figure 2; and col 4, lines 52-59];

        transferring said code, from said transfer component, to a proscribed code scanner [i.e.

policy engine calls the policy managers to apply policies] [216, Figure 2; and col 4, lines 59-col

5, lines 3; and col 5, lines 15-31];

        indicating, via said proscribed code scanner to said transfer component, whether said

code contains proscribed code; and, without transmitting said code to said transfer component [

i.e. the policy engine then receives results from policy manager] [col 5, lines 3-14].

        Dickinson does not specifically disclose

        transferring said code to at least one secondary storage component based on said

indication.

        Motoyama discloses transferring said code to at least one secondary storage component

based on said indication [i.e. queue of relay MTA] [Figure 7; and col 10, lines 15-48].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Dickinson and Motoyama because Motoyama's teaching of multiple relay MTA would enable to receive and transmit message properly to any types of connection from any communication networks.

8.   As per claim 2, Motoyama discloses the step of transferring said code from said at least one secondary storage component to a subsequent code transfer component [i.e. transmit message from relay MTA 328 to relay MTA 332] [328-334, Figure 7; and col 10, lines 15-48].

9.   As per claim 3, Dickinson discloses the step of sorting said code prior to transfer to said at least one secondary storage component [i.e. filter a message by the priority of the message] [col 5, lines 32-48; and col 7, lines 36-38].

10.   As per claim 4, Dickinson discloses the step of transferring code to at least two secondary storage components, with a first of at least two secondary storage components receiving smaller stored and forwarded code and a second of at least two secondary storage components receiving larger stored and forwarded code [i.e. queues] [col 5, lines 35-43; col 9, lines 64-col 10, lines 17; and col 11, lines 57-59].

11.   As per claim 5, Dickinson discloses code comprises email [Abstract; and col 2, lines 1-19].

12.   As per claim 6, it is rejected for similar reasons as stated above in claims 1 and 3.

13.   As per claim 7, it is rejected for similar reasons as stated above in claim 2.

14.   As per claims 8 and 9, they are rejected for similar reasons as stated above in claims 4

and 5.

15.   As per claim 10, it is rejected for similar reasons as stated above in claims 1 and 5.

16.   As per claim 11, it is rejected for similar reasons as stated above in claims 2 and 5.

17.   As per claim 12, it is rejected for similar reasons as stated above in claims 3 and 5.

18.   As per claim 13, it is rejected for similar reasons as stated above in claims 3-5.

19.   As per claim 14, it is rejected for similar reasons as stated above in claim 1. Furthermore,

Dickinson discloses transfers said code to either said first or second secondary storage

component based upon the presence or absence of proscribed code as indicated by said

proscribed code scanner [i.e. restriction transmission of e-mail message between the first site

and the second sites in accordance with the virus policy] [Abstract; and col 11, lines 18-21].

20.   As per claim 15, it is rejected for similar reasons as stated above in claim 5.

21.   As per claim 16, Dickinson discloses sendmail queue [Figure 7; and col 9, lines 64-col

10, lines 17].

22.   As per claim 17, it is rejected for similar reasons as stated above in claims 1, 5 and 14.

23.   As per claim 18, it is rejected for similar reasons as stated above in claims 1, 5 and 14.

24.   As per claim 19, it is rejected for similar reasons as stated above in claim 1.

25.   As per claim 20, it is rejected for similar reasons as stated above in claims 1-3 and 5.

26.   As per claim 21, Dickinson discloses wherein the method comprises a method for

sending mail, including creating a secondary queue which comprises a new queue prior to

sendmail processing, and retrieving email code prior to further sendmail processing from the

second queue and delivering prior to further sendmail processing said retrieved email code to a

proscribed code scanner [Figures 6a and 6b; and col 9, lines 1-62].

27.   As per claim 22, Dickinson discloses wherein where scanning of said email code

delivered to said proscribed code scanner results in the identification of the presence of

proscribed code the email code may remain in the secondary queue or be transferred to a second

secondary queue, and wherein when scanning of said email code delivered to said proscribed

code scanner does not result in the identification of the presence of proscribed code, the email

code may be moved to one or more third secondary queues [col 5, lines 49-67; and col 9, lines

46-63].

28.   As per claim 23, Dickinson discloses wherein at least a plurality of secondary storage

components are provided, including at least one secondary storage component comprising a

queue for outgoing messages, and wherein at least one other of said queue comprising a queue

from which messages are copied by a said transfer component and said copies are transferred to

said proscribed code scanner [Figure 7; and col 9, lines 64-col 10,m lines 17].

29.   Applicant's arguments with respect to claims 1-23 have been considered but are moot in

view of the new ground(s) of rejection.

30.   A shortened statutory period for response to this action is set to expire **3 (three) months

and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for

response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P

710.02, 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

Art Unit 2154